BACKGROUND PAPER FOR HEARING JANUARY 7, 2004

CALIFORNIA VETERINARY MEDICAL BOARD

IDENTIFIED ISSUES, QUESTIONS FOR THE BOARD, AND BACKGROUND CONCERNING ISSUES

GENERAL INFORMATION: The Veterinary Medical Board ("Board") was created by the California Legislature in 1893. It licenses and regulates veterinarians, certifies registered veterinary technicians (RVTs), approves RVT schools, and registers veterinary premises. There are approximately 8,600 licensed veterinarians, 3,700 RVTs, and 2,700 veterinary premises. According to the American Veterinary Medical Association (AVMA), California's professional community represents approximately thirteen percent of the national total.

The Board has seven members: four veterinarians and three public members. Standing committees include the Administration and Budget, Examination and Licensure, Legislative, Consumer Education, Continuing Education, Enforcement, and RVT committees.

Fiscally, the Board balances revenues, expenditures, and its contingency fund while maintaining vital services to the public. Revenues come from licensing, examinations, collected fines and penalties and cost recovery. Expenditures are for enforcement, examination, licensing, administration, and the Diversion Program. The Board's annual budget is approximately $1.8 million and its mandated contingency fund is kept at a level between three and ten months.

The Board requires adherence to licensure requirements for California veterinarians and RVTs. In line with these requirements, it has approved additional eligibility pathways for licensure of internationally trained veterinary graduates and certification of RVTs. It recently implemented continuing education regulations for veterinarians requiring thirty-six hours in the two years preceding license renewal.

PRIOR SUNSET REVIEW: The Joint Legislative Sunset Review Committee ("Joint Committee") last reviewed the Board seven years ago (1996-97). It considered whether licensing and regulation of the practice of veterinary medicine should continue and found sufficient evidence that the unregulated practice of veterinary medicine could cause significant harm to the public. The Joint Committee recommended continuing the Board and directed it to implement a number of recommendations. They included the following: (1) application and license fees should not be used to subsidize the costs of exams, and the schedule of fees should be separated to represent the actual activity being funded; (2) all proposals to implement continuing education requirements, as a prerequisite for license renewal, should demonstrate that the mandate will improve licensee competency and will have a measurable impact on consumer protection; (3) the State should not provide limited licensure for out-of-state commercial poultry veterinarians; (4) the Board should continue to regulate RVTs; and (5) a five-member advisory

committee composed of three RVTs, one veterinarian Board member, and one public Board member be created under the Board.

In September 2003, the Board submitted its required sunset report to the Joint Committee. In this report, information of which is provided in Members' binders, the Board addressed several issues presented during its last review and described actions it has taken since then. During the last seven years, the Board has, among other things:

- Improved delivery of veterinary services to consumers by adopting regulations to allow veterinarians to use RVTs in off-premise settings for wellness vaccinations, on-going hospice care, daily injections for diseases such as diabetes, etc.;

- Increased consumer awareness by enhancing access to the Web site and by providing a toll-free telephone number;

- Created on-line access to the consumer complaint form in two new formats, contributing to an 84 percent increase in consumer complaints;

- Initiated "License Lookup" so that consumers have access to licensing and enforcement information via the Internet;

- Increased enforcement staff resulted in a decrease in complaint resolution times and improved enforcement tracking (subsequently the staff was reduced and processing times rose);

- Updated minimum standards of practice and disciplinary guidelines;

- Implemented a mandatory continuing education audit program;

- Increased enforcement authority over California approved-RVT schools;

- Computerized the National Board Examination and the RVT State Board Examination;

- Adopted regulations to recognize the Program for Assessment of Veterinary Education Equivalence (PAVE) for international veterinary graduates;

- Conducted job analyses for both the veterinary and RVT (ongoing) state board examinations;

- Added another public member to the Board, thus expanding it to seven members; and

- Restructured the RVTC from an independent statutory committee of seven members to a five-member advisory committee;

The following are unresolved issues pertaining to this Board, or areas of concern for the Joint Committee, along with background information concerning the particular issue. There are also questions that the Joint Committee consultants have asked concerning the particular issue. The

Joint Committee provided the Board with these issues and questions in advance of the hearing, and the Board is prepared to address each one.

CURRENT SUNSET REVIEW ISSUES

BOARD COMPOSITION ISSUE

ISSUE #1: Even though RVTs constitute almost one-third of Board licensees and play a major role in the care of animals, they have no representation on the Board.

Question #1 for the Board: *Why shouldn't there be an RVT on the Board? Wouldn't the Board's mission as a consumer protection agency be better served with an RVT on it?*

Background: As pointed out by the Bay Area Veterinary Technicians Association in their comments to the Joint Committee, RVTs are skilled professionals who complete a prescribed education and training program and pass a certifications examination. They constitute roughly one-third of the Board's licensees. Although they have their own committee – the Registered Veterinary Technician Committee (RVTC), an advisory committee to the Board composed of individuals selected by the Board – they have no official representation on the Board. Thus, while the RVTC can make recommendations to the Board, it has no ability to make motions to the Board or to directly influence the Board's decisions.

RVTs have urged the Joint Committee to change the Board's composition to include RVTs as members. They state such inclusion on the Board would give RVTs an important voice and a vote on issues that directly affect them and their animal patients.

In addition, the RVTs assert that they, like their counterparts in the human medical field (i.e., nurses), generally are the providers of direct patient care. For this reason, they maintain that the RVT perspective is needed to represent both their fellow licensees and the animal patients who cannot speak for themselves. When the Board discusses minimum standards issues, for example, RVTs argue that the interest of the public would be better served with RVT representation on the Board, because RVTs are often the ones responsible for the day-to-day operation of the veterinary facility (e.g., maintaining the comfort of the patients, the physical plant, the logs, and the pharmacy).

If the Board's composition changed along these lines, it would not be the first time a California Department of Consumer Affairs (DCA) board included paraprofessionals. The California Dental Board, for example, has two auxiliary members: a registered dental hygienist and a registered dental assistant.

BOARD ENFORCEMENT ISSUES

ISSUE #2: Several veterinarians, RVTs, and veterinary students have alleged that it is common for unregistered assistants (UAs) to perform activities that only veterinarians or RVTs are licensed and/or qualified to perform.

Question #2 for the Board: *What actions, if any, has the Board taken in response to these allegations? Has it considered ways to better investigate or prosecute cases involving veterinarians who use UAs unlawfully? What is the Board doing to educate licensees, prospective licensees and the public about which veterinary personnel are allowed to perform what tasks?*

Background: California Code of Regulations §2036 provides that RVTs shall not perform functions that constitute the practice of veterinary medicine or that require the knowledge, skill and training of a licensed veterinarian. This includes surgery, diagnosis and prognosis of animal diseases, and the prescription of drugs.

However, under the direct supervision of a licensed veterinarian, an RVT may: induce anesthesia by inhalation or intravenous injection, suture an existing skin incision, extract teeth, or apply splints or casts. They may also perform a wide variety of tasks under the indirect supervision of veterinarians.

By contrast, a UA may not perform any of the tasks reserved for veterinarians or RVTs. However, a UA may perform other animal health care tasks (e.g., administer medication, operate radiographic equipment) under the direct or indirect supervision of a licensed veterinarian or under the direct supervision of an RVT.

Section 2036 of the regulations became an issue in the Board's recent and major enforcement action against Dr. Robert Rooks, who admitted to routinely using UAs for a variety of RVT- or veterinarian-level tasks. This included inducing anesthesia or performing Percutaneous Endoscopic Gastrostomies (PEG), an invasive procedure involving the insertion of a feeding tube into the stomach. If performed improperly, an insertion of a PEG tube could damage the spleen or a blood vessel and endanger the life of the patient. Indeed, the Board investigators found a UA on Dr. Rooks' staff regularly performed these tasks. This particular UA had no experience in the field of veterinary medicine (he had been a heavy equipment operator), but nonetheless assisted Dr. Rooks in surgery immediately after he joined Dr. Rooks' practice. Among the tasks he performed was inducing anesthesia, prepping and positioning animals on the surgery table, handling instruments, and monitoring patients.

At a hearing earlier this year, Dr. Rooks argued that using unlicensed technicians to induce anesthesia was common at veterinary hospitals. But the Administrative Law Judge hearing the case rejected that argument, stating that "The fact some veterinarians may call a widespread violation of the law 'the standard of practice' cannot and does not constitute a defense to a charge of permitting unregistered assistants to induce anesthesia …"

The Joint Committee has received reports from veterinarians, RVTs, and others that it is a common practice for veterinarians to use UAs of various skill levels to induce anesthesia on patients and to perform a variety of other unauthorized tasks.

ISSUE #3: Certain complaints about licensees are taking an unreasonable amount of time to investigate, and other complaints are not being investigated at all.

Question # 3 for the Board: *How does the Board review complaints it receives? On what basis does the Board refer cases for further investigation? What criteria does the Board use to determine the most serious ones, such as those requiring an Interim Suspension Order? How does it ensure that such cases are processed in the most expeditious manner? Given budget cuts*

and personnel shortages, how is the Board prioritizing its cases? Are there unreasonable delays in getting records from veterinarians who are under investigation? Should the Board contract with private investigators to compensate for the shortage of Department of Consumer Affairs Division of Investigation (DoI) investigators? Is the Board availing itself of all existing law enforcement resources (e.g., district attorney offices) to investigate cases?

Background: In its current report to the Joint Committee, the Board indicated that between 1996 and 2001 it dramatically improved complaint-processing times. However, since 2001, a combination of an increase in complaints combined with budget cuts and reduced personnel have contributed to a rise in processing time.

The Board uses DoI for its investigative services. According to the Board, these investigations should be completed within ten to twenty-one months, depending upon the complexity of the case. Currently, DoI generally holds cases for a minimum of three months prior to initiating an investigation, and in some instances, has held cases for more than eighteen months with no action. The Board states that these delays are unacceptable.

DoI is not only taking longer to investigate cases, but is declining to investigate certain cases altogether. In it current report to Joint Committee, the Board states that DoI indicated to it that cases involving animals have been assigned a much lower priority than cases involving humans. As a result of this low-priority assignment, the percentage of complaints the Board refers to DoI for formal investigation has dropped from nine percent of the complaints it receives to seven percent.

Moreover, according to the Board, DoI announced that, due to personnel cuts, it would no longer investigate any unlicensed activity complaints. This would include allegations of non-veterinarians (e.g., groomers who offer anesthesia-free teeth cleaning) performing veterinary-related functions for which they are neither licensed nor qualified to perform.

As a solution to this personnel-shortage problem, the Board is considering the possibility of outsourcing investigative services to private investigators.

ISSUE #4: Over the past seven years, the Board has inspected an average of only 13 percent of veterinary facilities a year. Once a facility has been inspected, it generally is not inspected again until other facilities have been inspected -- perhaps as long as six or more years later. These inspections have been performed by licensed veterinarians.

Question #4 for Board: *Why haven't there been more veterinary premise inspections? If due to lack of funds, has the Board sought higher premise fees to cover such inspections? On average, how often have veterinary hospitals been inspected? Would the inspections better deter unlawful behavior if any facility, not just one with an older last-inspection date, could be randomly selected every year? Please provide a break down, for each fiscal year, of the number of premises that were last inspected during that year, and the number of premises that have never been inspected. What could the Board do to expand the pool of qualified inspectors? Would this pool include RVTs? How does the Board evaluate prospective inspectors and how does it train them? Who supervises them?*

Background: California Code of Regulations §2030 sets the minimum standards for fixed veterinary premises where veterinary medicine is practiced, as well as all instruments, apparatus, and apparel used in connection with those practices.

The method the Board has selected to enforce such standards is premise inspections. Each year, the Board inspects an average of 300 registered veterinary facilities that are selected from a master list, and an average of thirty-one facilities in response to complaints it receives. The vast majority of these inspections are unannounced. During the past seven fiscal years (since 1996-97), the Board has completed 2,616 inspections, including 211 complaint-related ones.

The average rate for annual routine hospital inspections during the past seven years has been 13 percent, with a slight improvement during the past two fiscal years: 18 percent in 2001-02 and 16 percent in 2002-03. In its report to the Joint Committee, the Board indicated that all new veterinary premises are now inspected within the first six to twelve months of operation. In subsequent oral communications with the Joint Committee, the Board stated that its goal is to have all premises inspected within a five-year period.

The Board further indicated to the Joint Committee that when it "randomly" selects premises to inspect, it eliminates from selection those premises with the most recent inspection dates. Thus, it appears that once facilities are inspected, they enjoy "safe harbors" from random inspections for an extended period of time, perhaps as long as six or more years.

To accomplish these inspections, the Board has contracted with private veterinarians who hold current California licenses and have at least five years of clinical practice experience. However, the Board is considering expanding the pool of prospective inspectors to include RVTs as well.

ISSUE #5: The current self-imposed maximum cite and fine authority of $1,500 may not be high enough to deter illegal activity and unprofessional conduct.

Question #5 for Board: *Why hasn't the Board increased its cite and fine authority to the statutory maximum? Please provide greater detail as to how the Board determines the classifications of various cite and fine violations and the amounts to be assessed.*

Background: The Board implemented the citation and fine program in 1990 to augment its complaint review process. It uses the program to address violations of the law that do not warrant revocation or suspension of a license or criminal prosecution.

In the Board's report, it indicates that it established regulations that provide a flexible guide to determine an appropriate civil penalty related to the nature and gravity of each violation as it affects the health, safety, and welfare of the public. The number of citation and fines issued has grown from ten in 1996-97 to eighty-seven citation and fines in 2002-03.

The Board developed the violation guidelines to outline the criteria for issuing a citation and fine. The following fine guidelines are divided into three categories based on degree of harm and history of previous citations:

Class "A" violations – most serious violations – with fines from $1,001 to $1,500.
Class "B" violations – serious violations – with fines from $501 to $1,000.

Class “C” violations – minor violations – with fines from $50 to $500.

Under Business and Professions code §125.9, the maximum statutory level for these administrative fines is currently $2,500, and will be $5,000 effective January 1, 2004, as a result of recently enacted legislation (SB 362, Figueroa; Chapter 788, Statutes of 2003).

ISSUE #6: It has been argued that the Board is ignoring its own disciplinary guidelines regarding the mandatory revocation (no stay) of licenses in cases involving cruelty to animals.

Question #6 for the Board: *What disciplinary action has the Board taken with respect to licensees who have been cruel to animals? Has it stayed revocations in any of these cases? If so, why?*

Background: The Board's disciplinary guidelines state that animal cruelty "is considered by the Board to be so severe that revocation is the only appropriate penalty, together with a $5,000 fine."

It has been argued that the Board has been ignoring this policy by staying revocation in at least one case where a veterinarian was found to have committed animal cruelty.

BUDGETARY ISSUE

ISSUE #7: During the last review of the Board, the Joint Committee recommended that the Board make examinations self-supporting so that funds that could otherwise be spent on enforcement are not used to subsidize them. However, the Board's current report indicates that it continues to lose money on the State Board Exam.

Question #7 for the Board: *How much money is the Board spending every year to subsidize the state exam costs? Why hasn't the Board made the state board exam self-supporting? Where are the subsidies coming from? What fee would the Board need to charge for the state exam to break even?*

Background: During the previous Sunset Review of the Board, the Joint Committee recommended that application and license fees should not be used to subsidize the costs of examinations. It noted that the Board was using license fees to subsidize the national, and perhaps state examination, thereby limiting the amount that could be spent on enforcement.

Since the Joint Committee made those recommendations seven years ago, the Board has explored ways to reduce its costs for the national and California State Board examinations without compromising their integrity. In conjunction with the Department of Consumer Affairs’ Office of Examination Resources, the Board took several actions, including streamlining its state exam testing format to focus on issues specific to the western states regions and reducing the total number of questions from 240 to 100.

However, while these actions initially reduced the Board’s costs, higher increased examination preparation and validation costs have caused the Board to lose money on the state exam. And

despite the $325 statutory ceiling on state board fee, the Board has not raised the fee (currently $140) to make the state exam self-supporting.

EXAMINATION ISSUE

ISSUE #8: The California Veterinary Law Examination (VLE) is a take-home, thirty-question examination. It is unclear as to whether this exam is helpful in testing for knowledge of California law and practice.

Question #8 for the Board: *What is the purpose of this take-home examination? How is it useful? Is the Committee planning changes to the way the exam is administered?*

Background: California requires three examinations for licensure of veterinarians: 1) the National Veterinary Licensing Examination (NAVLE); 2) the California State Board Examination (CSB); and 3) the California Veterinary Law Examination (VLE), as specified in the California Veterinary Medicine Practice Act ("Practice Act"). University of California and Western University of Health Sciences veterinary medical students who have successfully completed a board-approved course on veterinary law and ethics covering the Practice Act are exempt from the VLE requirement.

The VLE consists of thirty, multiple-choice questions on minimum standards of practice, sanitary conditions in veterinary facilities, and record keeping -- all based on the Practice Act. Unlike the other exam formats, the VLE is administered on a take-home, open-book basis. It has a 99 percent passage rate.

LICENSURE ISSUE

ISSUE #9: The Practice Act does not define what constitutes a veterinary medicine specialty, and consumers and other veterinarians may be misled about the qualifications of veterinarians who use specialty titles.

Question #9 for the Board: *What could the Board do to protect consumers against veterinarians who refer to themselves as specialists but have not been certified by a specialty board? Should it adopt regulations that are similar to the AVMA's guidelines for using specialty titles?*

Background: In 1978, the AVMA organized the American Board of Veterinary Practitioners (ABVP) to advance the quality of veterinary medicine through certification of Veterinarians who demonstrate excellence in specified fields of practice.

The ABVP oversees the development of veterinary specialty organizations and monitors their performance in providing certified specialists. In general, certification by an AVMA specialty board requires graduation from a college of veterinary medicine approved or accredited by the AVMA, completion of six years of excellent experience in the practice category for which certification is sought or completion of a residency program of at least two years in length approved in advance by the ABVP Residency Committee, preceded by one year of active practice or a rotating internship approved by the ABVP Credentials Committee, and passage of

an examination. Once a veterinarian passes the examination, he or she becomes a diplomate of the specialty board, and his or her name is published in the AVMA Membership Directory.

The AVMA Principles of Veterinary Medical Ethics maintain that use of the title of specialist is limited to those veterinarians who have been certified by an AVMA recognized specialty organization. Most state practice acts also adhere to this standard and restrict recognition to those who are truly board-certified specialists. The following are examples of misuse or inappropriate use by non-certified individuals: "special interest in…", "specialist in …", "specialty of…", "specializing in…", "special training in …", "expert in…","advanced knowledge or training in …", "…ologist" (e.g., dermatologist, echocardiolosits), and "…ist" (e.g., internist).

By contrast, the terms "practice limited to …" or "professional interest in …" have been deemed to be appropriate for those who wish to designate their specific areas of practice without referring to themselves as specialists.

These AVMA guidelines, the standard of practice in the veterinary community, have not been formally incorporated into the Practice Act. Nonetheless, the Board has used them to determine whether a licensee has appropriately used a specialty title. Indeed, one of the bases for the Board's disciplinary action against Dr. Robert Rooks was his misrepresentation of certain hospital veterinarians; he used labels such as "neurologist" and "internist" to describe certain veterinarians that had not been certified by a specialty organization.

However, in his appeal of the administrative court's decision, Dr. Rooks has underscored the absence of an "ascertainable standard" as to whether a licensed veterinarian may hold himself out as a specialist, claiming a violation of his right to due process of law.

DISCLOSURE ISSUE

ISSUE #10: The Board's Web site does not disclose any cite and fine information nor does it provide detailed information about a licensee's disciplinary record.

Question #10 for the Board: *Why is no detailed discipline-related information available on the Board's Web site? What action has the Board taken to upgrade its software to give consumers more complete online access to disciplinary information? Why is cite and fine information missing from the Board's Web site?*

Background: Consumers who log on to the Board's Web site to obtain information about veterinarians or veterinary hospitals may currently obtain only general information about the licensee, such as license status, address, and whether disciplinary actions have been taken. However, if disciplinary action has been taken, the consumer must contact the Board to obtain more detailed information.

The Board has indicated that DCA possess a software program, currently used by the Behavioral Sciences Board (BBS), that it would like to use to make more useful information available online to consumers. BBS Web site users have direct consumer access to a summary of disciplinary action against a licensee. According to the Board, the reason such information is not available

on its Web site is because DCA does not have staff available to "patch" the current database that the Board uses.

With respect to a licensee's cite and fine history, the only way that consumers may obtain such information is by contacting the Board.

PRACTICE ISSUES

ISSUE #11: The practice of ear cropping in dogs, cosmetic surgery performed on dog ears to give them a pointed appearance, is practiced by a few veterinarians and illegally by people involved in dog fighting.

Question #11 for the Board: *Other than surgically altering a dog's ears for the treatment of disease or injury, are there legitimate reasons why the practice of dog ear cropping should continue? Should the procedure be banned for both the individual performing the procedure as well as the person ordering it?*

Background: According to the Association of Veterinarians for Animal Rights (AVAR), which opposes ear cropping, this surgical procedure is done for cosmetic reasons; there is rarely a medical need to surgically alter a dog's ears. It is a painful surgery performed on puppies typically between nine and twelve weeks of age. The dog is put under anesthesia, and the ears are cut and shaped to stand erect rather than remain in their normal floppy state. After surgery, the ears are taped up and usually affixed with adhesive to some sort of rack for weeks. Frequent follow-up visits to a veterinarian are needed, and sometimes additional surgery is needed to ensure the ears do not heal wrinkled.

The AMVA, as well as state veterinary organizations, including the California Veterinary Medical Association, discourage ear cropping and state that the surgery is medically unnecessary and can cause pain and distress in the dog. The World Small Animal Veterinary Association, which represents the veterinary associations in at least 26 countries on this issue, opposes the practice and believes ear cropping in dogs should be illegal. Ear cropping is prohibited in Australia, Great Britain, Austria, Belgium, Denmark, Finland, Greece, Luxemberg, Norway, Portugal, Sweden, Switzerland, Cyprus, Czechoslovakia, Norway, Israel, and in the Canadian provinces of Newfoundland and Labrador.

Several national breed clubs believe that ear cropped dogs look better, are more aristocratic, and that the procedure prevents ear infections. The breed clubs that endorse ear cropping in dogs include the Doberman Pinscher, Boxer, Standard Schnauzer, and Great Dane. However, a growing number of such breeders do not have their dog's ears cropped, and ear cropping is not routinely performed in other breeds where ear infections are prevalent.

Further, the American Kennel Club states that, "There is nothing in AKC rules or in any breed standard that compels an owner to have this procedure performed as a prerequisite to entry at a dog show."

Ear cropping is also performed on dogs used in dog fighting activities. In this situation, the dog's ear is almost cut off entirely. This "battle cropping" has been performed legally by veterinarians

and illegally by people involved in dog fighting activities. If prohibited by law, law enforcement could potentially have another tool to use for closing down illegal dog fighting operations.

The AVAR recently hired a professional polling firm, Zogby International, to query California Veterinary Medical Association members about ear cropping. Only about 10 percent of its members practice ear cropping for cosmetic reasons. Seventy-four percent think that veterinarians should not do ear cropping unless it is for the health and well-being of the dog. Eighty-six percent think that ear cropping is painful during the post-operative period, including anesthetic recovery and after-care. And, fifty-six percent of small animal practitioners would support legislation to prohibit ear cropping, unless for therapeutic purposes.

ISSUE #12: Should veterinarians and RVTs be required to report animal abuse like health care professionals, including physicians, dentists, nurses, and chiropractors are required to report child abuse?

Question #12 for the Board: *Should veterinarians and RVTs be required to report animal abuse?*

Background: The Child Abuse and Neglect Reporting Act (California Penal Code § 11164 et seq.) designates professions and occupations whose members, while acting in their professional capacity or within the scope of their employment, must report incidents of child abuse and neglect about which they know or have reasonable suspicion. The list of "mandated reporters" include health professionals, such as, physicians, surgeons, psychiatrists, dentists, podiatrists, chiropractors, licensed nurses, dental hygienists and optometrists.

No mandated reporter shall be civilly liable for any report required or authorized by the Act. Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars or by both.

The lack of legal immunity for reports of animal cruelty was the subject of recently enacted legislation in the state of New York. Under this new law, a veterinarian who reasonably and in good faith suspects that a companion animal's injury, illness or condition is the result of animal cruelty or a violation of any law pertaining to the care, treatment, abuse or neglect of a companion animal, or believes that disclosure of certain records is necessary to protect the health or welfare of a companion animal, a person or the public, may report the incident and disclose records concerning the companion animal's condition and treatment to the law enforcement agencies and others. Veterinarians who make such reports are immune from liability in the form of damages in any civil or criminal proceeding on account of such reporting or disclosure.

Currently, veterinarians and RVTs have no duty to report animal abuse or cruelty.

ISSUE #13: There appears to be general non-compliance with the California law requiring rodeo veterinarians to report rodeo-related animal injuries to the Board.

Question #13 for the Board: *Why has there been insufficient reporting of rodeo animal injuries? What is the Board doing to improve this type of reporting?*

Background: California Penal Code § 596.7 (SB 1462, Perata; Chapter 992, Statues of 2000), which became effective on January 1, 2001, requires, among other things, that: (a) rodeos have attending or on-call veterinarians at all times, (b) that any animal that is injured during, or due to, a rodeo event shall receive immediate examination and appropriate treatment by the attending veterinarian or shall begin receiving examination and appropriate treatment by a veterinarian within one hour after of the determination of the injury requiring veterinary treatment, and (c) that such veterinarians must submit brief reports of any animal injury to the Board within forty-eight hours of the injury.

The Board has received only three reports since January 2001, all within the past year.

DRUG AND ALCOHOL DIVERSION PROGRAM ISSUE

ISSUE #14: Over the past four years, the Board has spent almost $40,000 on its Drug and Alcohol Diversion Program, but the program has had only two successful graduates.

Question #14 for the Board: *Given its expense and extremely low successful completion rate, is the Board's Diversion Program worth continuing?*

Background: California Business and Professions Code § 4860 requires the Board to "seek ways and means to identify and rehabilitate veterinarians and registered veterinary technicians with impairment due to abuse of dangerous drugs or alcohol, affecting competency so that veterinarians and registered veterinary technicians so afflicted may be treated and returned to the practice of veterinary medicine in a manner that will not endanger the public health and safety."

In response to this mandate, in 1984, the Board implemented the mandated Drug and Alcohol Diversion Program. The three-year program's goal is to identify and rehabilitate veterinarians and registered veterinary technicians with impairment due to drugs and alcohol so that they may return to practice in a manner that will not endanger the public's health and safety.

Currently, the Board has a new interagency agreement with Maximus to administer this program. Although the Board has the authority to collect a participant fee of $1,600 for the program, it is rare that participants are able to cover the fee due to their loss of income during recovery.

Over the past four years, the Board has spent $38,815 on the program, had nineteen participants, two successful completions, and two unsuccessful completions. There has not been a single successful completion during the past two years.